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September 9, 2010

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109; Schools and Libraries Universal Service Support Mechanism, WC Docket No. 02-6; A National Broadband Plan for Our Future, WC Docket No. 09-51*

Dear Ms. Dortch:

On September 8, 2010, Chris Miller and the undersigned of Verizon met with Angela Kronenberg, Acting Chief of Staff and Wireline Legal Advisor to Commissioner Clyburn. We discussed the Commission's May 4, 2010 referral to the Federal-State Joint Board on Universal Service (Joint Board) of questions regarding eligibility, verification, and outreach rules for the universal service low-income programs. We explained that the Joint Board should recommend reforms that assign state social service agencies a more active role in consumer outreach and in qualifying eligible end-users, as recommended by the National Broadband Plan. We also explained that the Joint Board should recommend establishing a national administrator to centralize functions associated with the enrollment, certification, and verification of Lifeline customers.

In addition, we discussed the Commission's proposal to allow schools and libraries to receive E-rate support for the lease of dark fiber from third parties that are not telecommunications carriers, such as municipalities and other community or anchor institutions. As USTelecom explained in its recent letter regarding this matter,¹ the potential addition of dark fiber to the Eligible Services List (ESL) raises several major issues. Those issues include (1) conflict with established rules,

¹ Letter from David Cohen, USTelecom, to Marlene Dortch, FCC, WC Docket No. 02-6 (Aug. 30, 2010.)

including the E-rate program's Wide Area Network (WAN) rules; (2) the impact on fund demand; (3) concerns about the cost-effectiveness of dark fiber; and (4) concerns about the proposal's compliance with the E-rate program's competitive bidding requirements. Other parties, including the American Library Association (ALA), have raised additional questions.² The Commission should defer action on its dark fiber proposal in order to provide an opportunity for further study of the issues raised by USTelecom, ALA and others.

More specifically, in yesterday's meeting we highlighted the conflict between the E-rate program's competitive bidding principles and the proposal to allow schools and libraries to receive E-rate support for the lease of dark fiber from municipalities and other non-carriers. We noted that schools and libraries are likely to be tightly linked to the municipality or other local dark fiber provider through the flow of funds and the sharing of information, facilities, and even staff. It is unclear how the Commission could fund dark fiber provided by a municipality or other provider with similar linkages to the applicant in a competitively neutral manner, as is required by section 254(h)(2) of the Act and the Commission's rules. At a minimum, the proposal to extend E-rate support to dark fiber provided by non-telecommunications carriers requires significant additional study.

We also discussed the potential impact of the dark fiber proposal on demand for E-rate funds. We explained that the E-rate program was not designed to put schools and libraries in a position to build and operate their own communications networks, which would be the result of E-rate support for dark fiber. Supporting dark fiber network construction costs for even just a few schools and libraries could drain significant funding away from other beneficiaries. In the event that the Commission does elect to move forward with its proposal to add dark fiber to the eligible services list – which it should not do – the Commission should exercise great care. It should add dark fiber to the eligible services list only on a pilot or interim basis, in order to better assess the level of demand for dark fiber support and the potential impact on the fund. During that interim period, as recommended by US Telecom, the Commission should place a limit on the annual support available for dark fiber leases.

Please contact me if you have any questions.

Sincerely,



Alan Buzacott

cc: Angela Kronenberg

² See, e.g., Reply Comments of the American Library Association, CC Docket No. 02-6 (July 26, 2010).